

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

UNITED STATES OF AMERICA )  
                               )  
vs.                           )        JUDGE CARTER  
                               )        Mag. No. 1-10-mj-6  
ERIC SCOTT HUBBARD      )  
ALLEN S. FITZGERALD     )

MEMORANDUM AND ORDER

In accordance with Rules 5 and 5.1 of the Federal Rules of Criminal Procedure and in accordance with the Bail Reform Act, 18 United States Code § 3142(f), the preliminary hearing and detention hearing were held in this action on January 11, 2010. Those present included:

- (1) AUSA Mel Schwing for the United States of America.
- (2) The defendant, ERIC SCOTT HUBBARD.
- (3) Attorney Rita LaLumia for defendant.
- (4) The defendant, ALLEN S. FITZGERALD.
- (5) Attorney Lee Ortwein for defendant.
- (6) FBI Agent Bob Bissell.
- (7) Deputy Clerk Kelli Jones.
- (8) Court Reporter Elizabeth Coffey.

Upon being sworn, the defendants were informed or reminded of their privilege against self-incrimination accorded them under the 5th Amendment to the United States Constitution. Atty. Rita LaLumia of Federal Defender Services of Eastern Tennessee, Inc. was present as court appointed counsel for defendant Eric Scott Hubbard, and Atty. Lee Ortwein was present as court appointed counsel for defendant Allen S. Fitzgerald.

The defendants acknowledged they had received a copy of the Criminal Complaint at the initial appearance on January 7, 2010. It was determined they were capable of being able to read and understand the proceedings.

AUSA Schwing moved the court that the defendants be detained without bail.

Detention Hearing and Preliminary Hearing - Proof

AUSA Schwing called FBI Agent Bob Bissell as a witness. He testified to the facts outlined in the affidavit attached to the criminal complaint.

## Findings

Having heard and considered the testimony of the Agent Bissell during the detention hearing and preliminary hearing and the Affidavit/Complaint, the undersigned finds:

- (1) There is probable cause to believe that there have been violations of 18 U.S.C. §§ 213(a) and 371, conspiracy to commit bank robbery, committed in the Eastern District of Tennessee.
- (2) There is probable cause to believe the defendants committed the aforesaid offenses.
- (3) The proof the defendants committed the aforesaid offenses is strong.
- (4) As to both defendants, there are no conditions nor are there any combination of conditions which will reasonably assure the safety of the community or the presence of the defendants at future hearings.

## Conclusions

It is ORDERED:

- (1) Both defendants are held to answer the charges against them in the District Court.
- (2) AUSA Schwing's motion to detain the defendants without bail is GRANTED for reasons set out in the separate ORDER OF DETENTION PENDING TRIAL filed with this order.
- (4) The defendants' next appearance shall be for an arraignment before the undersigned at **10:00 a.m. on Monday, February 1, 2010.**

ENTER.

Dated: January 14, 2010

*/s/William B. Mitchell Carter*

UNITED STATES MAGISTRATE JUDGE